



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE  
SERVICES

July 1, 2013

Honorable Nirav R. Shah, M.D., M.P.H.  
Commissioner of Health  
New York State Department of Health  
Corning Tower, Empire State Plaza, 14th Floor  
Albany, New York 12237

Dear Commissioner Shah:

We have conditionally approved New York's application for Federal fiscal year (FFY) 2013 funds under Part C of the Individuals with Disabilities Education Act (IDEA Part C). Our conditional approval is based on our review of the IDEA Part C application, submitted by New York State Department of Health (NYSDOH) to the U.S. Department of Education, Office of Special Education Programs (OSEP), on April 22, 2013.

Our conditional approval of New York's FFY 2013 IDEA Part C grant is also based on the State's policies, procedures, methods, descriptions, assurances, and certifications identified in Section II.A, II.B, and II.C, which is incorporated by reference to this grant award letter as Enclosure A. Our approval is also based on the State's certification in Section II.D of its FFY 2013 IDEA Part C application, in which section the State certifies under 34 CFR §76.104 that it will:

1. Operate throughout the period of the FFY 2013 grant award consistently with the requirements of the IDEA as found in 20 U.S.C. §§1431 through 1443 and the final regulations in 34 CFR Part 303 (as published on September 28, 2011); and
2. Make such changes to existing policies, procedures, methods, and descriptions as are necessary to bring those policies, procedures, methods and descriptions into compliance with the requirements of IDEA Part C, as soon as possible, and not later than the earlier of the date indicated by the State in Section II.A. or II.B of its application or June 30, 2014.

As part of your State's application for FFY 2013, your State has made an assurance, under Section II.C.2 of its FFY 2013 application and pursuant to 34 CFR §80.11(c), that it will comply with all applicable Federal statutes and regulations in effect during the FFY 2013 grant period.

Before adopting a new or revised IDEA Part C policy or procedure that is required under Part C of the IDEA or under the final regulations in 34 CFR Part 303, the State must subject those policies and procedures to the public participation requirements in 34 CFR §303.208 and, for those policies and procedures specifically referenced in 34 CFR §303.101(c), receive OSEP approval prior to their implementation.

Enclosed is the State's FFY 2013 grant award for funds currently available under the Consolidated and Further Continuing Appropriations Act, 2013 -- P.L. 113-6 for the IDEA Part C program. These funds are available for obligation by States from July 1, 2013 through September 30, 2015 in accordance with 34 CFR §76.709.

Section IV.B of the State FFY 2013 application for Part C funds requested updated information about each State's restricted indirect cost rate. New York indicated in Section IV.B that NYSDOH has a restricted indirect cost rate that expired on March 31, 2013, and the agency is in the process of negotiating a new restricted indirect cost rate that will be in effect for the FFY 2013 grant period

including these dates: April 1, 2013 through March 31, 2014. In Section IV.B, NYSDOH indicated it will continue to bill the IDEA Part C FFY 2013 grant based on this previously approved restricted indirect cost rate until a final restricted indirect cost rate agreement is approved for FFY 2013, which may result in an adjustment of the final audited expenditures allowed to the Part C FFY 2013 grant funds. When a final restricted indirect cost rate is approved for FFY 2013, please forward to our Indirect Cost Unit and to your OSEP State Contact a copy of the final restricted rate agreement.

Section 604 of the IDEA provides that “[a] State shall not be immune under the 11<sup>th</sup> amendment to the Constitution of the United States from suit in Federal court for a violation of this [Act].” Section 606 provides that each recipient of assistance under IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant, your State is expressly agreeing as a condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant award of FFY 2013 funds is made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part C.

As a reminder, all prime recipients of IDEA (Part B or Part C) funds, must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <http://www2.ed.gov/policy/gen/leg/recovery/rms-web-conferences.html>. Please contact your State’s Fiscal Accountability Facilitator if you have further questions.

We appreciate your ongoing commitment to the provision of quality early intervention services to infants and toddlers with disabilities and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal line extending to the right.

Melody Musgrove, Ed.D  
Director  
Office of Special Education Programs

Enclosure

Enclosure A

cc: Part C Coordinator